

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

JASON DANIEL GANDY,
Defendant

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Criminal No. H-12-503SS

GOVERNMENT'S REQUESTED VOIR DIRE

The United States of America, by and through Ryan K. Patrick, United States Attorney, Sherri L. Zack and Kimberly Ann Leo, Assistant United States Attorneys for the Southern District of Texas, requests that the following questions be presented during voir dire of prospective jurors.

Respectfully submitted,

RYAN K. PATRICK
United States Attorney

s/ Sherri L. Zack

Sherri L. Zack
Kimberly Ann Leo
Assistant United States Attorneys
U.S. Attorney's Office, S.D. Texas
1000 Louisiana, Suite 2300
Houston, Texas 77002
Tel: (713) 567-9000

GOVERNMENT'S REQUESTED VOIR DIRE QUESTIONS:

Introductory Questions

1. If your answer to any of the following questions would prove embarrassing to you personally if answered in the presence of the panel as a whole, you may raise your hand, state your name and come forward to the bench and reply to the Court and attorneys privately. The questions asked are not meant to pry into your personal affairs, but to determine whether or not you could be fair and impartial if selected as a juror in this case.
2. Are any members of the jury panel acquainted with the Defendant in this case, Jason Daniel Gandy? The attorneys representing Mr. Gandy are Sean Buckley, Dustan Neyland, and Louis Val Salmon. Are any members of the panel familiar with them?
3. The attorneys representing the government are Kimberly Leo and Sherri Zack. Are any of you familiar with either of us?
4. I am going to read you a list of potential witnesses, please let me know if you are familiar with any of the names on the list. (Read both government and defense witness lists.)
5. For any of you who are familiar with the Defendant, the attorneys, or the witnesses, how do you know them and will this familiarity make it difficult for

you to be a fair and impartial juror?

Prior Experience

6. Has any member of the panel ever served on a jury before? If so, was it a civil or criminal case? Was it in state of federal court? Was there anything about that experience that would affect your ability to be fair and impartial?

7. Has any member of the jury panel or any member of your immediate family ever had an unpleasant experience with any governmental agency or state agency which would cause you to be biased against the government?

8. Are any members of the panel related to or have friends in law enforcement, and by law enforcement I mean, federal agents, police officers, fire fighters, paramedics or attorneys? Would that relationship make it difficult for you to be a fair and impartial juror?

9. This case is being prosecuted by the United States of America. Has any member of the jury panel or your immediate family had such a negative experience with law enforcement or the legal community that you would be unable to serve as a fair and impartial juror? Have any of you ever had any difficult or unpleasant experiences with the federal government, Homeland Security Investigations, the United States Attorney's Office, or the United States

Department of Justice or, do any of you have personal feelings against the federal government for whatever reason?

10. Would any member of the panel treat the testimony of a law enforcement officer differently than a civilian? Meaning would you automatically believe or disbelieve a police officer just because of their position? Why or why not? Do you understand that all testimony should be evaluated using the same criteria, and that it is your duty as a juror to determine the credibility of witnesses?

11. Has any member of the jury panel or any close relative of a member of the jury panel ever been charged with a non-traffic related violation of either the state or federal law? Please identify who was charged and what they were charged with. What was the outcome of the case? How did it affect you personally? Would this experience or how it affected your family or friend affect your ability to be fair and impartial?

12. Has any member of the panel, a family member or a close friend ever been the victim of a crime? If yes, what was the nature of the crime? Was the perpetrator caught and prosecuted? Did you have to appear as a witness in court? Based on that experience, could you still be fair and impartial when evaluating the evidence in this case?

Witnesses

13. As part of the government's case we are going to call witnesses to testify. I am sure you can understand, given the process you are going through right now, that it may be intimidating and cause anxiety for a witness to speak in court, to be questioned by attorneys and to be judged by the jury. Has any member of the panel testified as a witness in court or some type of hearing? How did that make you feel? Does the fact that someone is nervous or does not speak eloquently mean they are not being truthful?

14. As a member of the jury you will have the task of determining the credibility of witnesses. The Court is going to instruct you that you are the sole judges of the credibility or "believability" of each witness and the weight to be given the witness's testimony. It will be your job to assess the credibility of the witnesses who testify in this case. You may believe all, none, or any part of a witness' testimony. Are all of you confident that you can assess the credibility of witnesses? What if you do not like the person or something about them? Does that make them less credible? Can you put aside any personal prejudices you may have and evaluate their testimony in light of the other facts, evidence and circumstances of this case? We all live our lives according to the rules we set for ourselves. If someone has a lifestyle you do not approve of, does that make them

less credible?

15. The law provides that you can believe all, some, or none of a witness's testimony. Are there any among you who could not disregard the portion of a witness testimony that you do not believe and base your decision as to guilt or innocence on the portion of the testimony that you do find credible?

16. The law provides that you can convict a defendant based on the testimony of one witness if you are convinced beyond a reasonable doubt by that one witness that a defendant is guilty of the conduct charged. Are there any among you who would have difficulty following that instruction?

Sex Trafficking/Sexual Exploitation of Children

17. Has any member of the panel ever run away from home or had a sibling, child or other family member or friend run away from home? Why did they do this? What happened while they were out on the street? Were sex or drugs part of the process? What was done to remain safe on the street? Were you or they used by others while on the run? Will this experience or your knowledge of another's experience affect your ability to be fair and impartial? Has anyone had sexually explicit images/videos of them taken when they were a minor either with or without your permission? How did that make you feel?

18. You will be required to apply laws that makes it illegal to traffic a

minors for commercial sex, even if the minor was a willing participant. Would you be able to follow that law?

19. If the Court were to instruct you that the Government does not have to prove that the defendant had actual knowledge that the victim was under the age of 18, but rather that the defendant had a reasonable opportunity to observe that victim, could you follow the law? Would you require proof that the defendant knew the person was under 18, even if the law does not require it?

Burden of Proof

20. It is the government's burden to prove this case to you beyond a reasonable doubt. The Court is going to instruct you that it is not necessary that the defendant's guilt be proved beyond all *possible* doubt. A "reasonable doubt" is a doubt based upon reason and common sense after careful and impartial consideration of all the evidence in the case. Proof beyond a reasonable doubt, therefore, is proof of such a convincing character that you would be willing to rely and act upon it without hesitation in the most important of your own affairs. Are all of you willing to accept the concept of reasonable doubt as defined and apply it to the case presented? Are any of you going to make the government prove its case one hundred percent? Do you all understand that reasonable doubt is not something that

you can define by a mathematical calculation and that it's not beyond all doubt?

21. In reaching a verdict, you may also consider either direct or circumstantial evidence. "Direct evidence" is the testimony of one who asserts actual knowledge of a fact, such as an eye witness.

"Circumstantial evidence" is proof of a chain of facts and circumstances indicating either the guilt or innocence of the Defendant. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It requires only that you weigh all of the evidence and be convinced of the Defendant's guilt beyond a reasonable doubt before she can be convicted.

The law makes no distinction between the importance to be given direct as opposed to circumstantial evidence. Do any of you feel differently or believe you could not consider circumstantial evidence?

Could you be convinced beyond a reasonable doubt that the defendant was guilty of knowing or being in reckless disregard of an element of the crime if the evidence as to his knowledge of the crime was only circumstantial?

Could you find the defendant guilty if you did not believe that the defendant knew the victims were either minors or were engaging in commercial sex against their wills but only convinced beyond a reasonable doubt that he was in reckless disregard of either of those two facts?

Miscellaneous

22. Do any among you have any conscientious objection, religious belief, or mental reservation such that you could not, in good faith, sit as a juror in this criminal case and return a verdict of guilty, if you believe from all the evidence, that the Government has proved its case beyond a reasonable doubt?

23. The law does not require the Government to call as witnesses all persons who may have knowledge of the matters in issue at this trial nor to produce as exhibits all papers or other items mentioned in evidence.

Are there any among you who believe that if the Government does not call all persons who may have knowledge of the matters in issue and produce as exhibits all papers or other items mentioned in evidence, this would keep you from weighing the evidence presented fairly and voting to find the defendant in this case guilty if you believe the Government has proven its case beyond a reasonable doubt as to the defendant?

24. Does any member of the panel have any physical or medical reason why they could not sit on this jury? Does anyone have any personal or religious beliefs that would prevent them from being able to sit in judgment in this case?

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent via ECF/PACER filing to counsel for the defendant, on this the 9th day of July, 2018.

s/ Sherri L. Zack
Sherri L. Zack
Assistant United States Attorney